

Union Calendar No. 179

110TH CONGRESS
1ST SESSION

H. R. 2347

[Report No. 110-277, Part I]

To authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran's energy sector, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2007

Mr. FRANK of Massachusetts (for himself, Mr. LANTOS, Mr. SHERMAN, Mr. SHAYS, Mr. LYNCH, Mr. ACKERMAN, Mr. KLEIN of Florida, and Mr. WEXLER) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Education and Labor and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 30, 2007

Additional sponsors: Mr. MARSHALL, Mr. BACA, Mr. CAPUANO, Mr. BERMAN, Ms. ROS-LEHTINEN, Mr. GUTIERREZ, Ms. BERKLEY, Mr. HODES, Mr. HONDA, Ms. WASSERMAN SCHULTZ, Mr. PALLONE, Mr. HASTINGS of Florida, Mr. VAN HOLLEN, Mr. CULBERSON, Mr. FOSSELLA, Mr. TIM MURPHY of Pennsylvania, Mr. RANGEL, Mr. GERLACH, Mr. BURTON of Indiana, Mrs. DRAKE, Mr. MCHENRY, Mr. CANTOR, Mr. PLATTS, Mr. RENZI, Mr. BARROW, Mr. FRANKS of Arizona, Mr. PERLMUTTER, Mr. MCNERNEY, Mr. ENGEL, Mr. MICHAUD, Mr. PATRICK J. MURPHY of Pennsylvania, Ms. HARMAN, Mr. RAMSTAD, Mr. BARTLETT of Maryland, Mr. KNOLLENBERG, Ms. LEE, and Mr. GARRETT of New Jersey

JULY 30, 2007

Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JULY 30, 2007

Committees on Education and Labor and Oversight and Government Reform

discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 16, 2007]

A BILL

To authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran’s energy sector, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Iran Sanctions Ena-*
 5 *bling Act of 2007”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds as follows:*

8 *(1) The Convention on the Prevention and Pun-*
 9 *ishment of the Crime of Genocide, completed at Paris,*
 10 *December 9, 1948 (commonly referred to as the*
 11 *“Genocide Convention”) defines genocide as, among*
 12 *other things, the act of killing members of a national,*
 13 *ethnic, racial, or religious group with the intent to*
 14 *destroy, in whole or in part, the targeted group. In*
 15 *addition, the Genocide Convention also prohibits con-*
 16 *spiracy to commit genocide, as well as “direct and*
 17 *public incitement to commit genocide”.*

1 (2) 133 member states of the United Nations
2 have ratified the Genocide Convention and thereby
3 pledged to prosecute individuals who violate the Geno-
4 cide Convention's prohibition on incitement to com-
5 mit genocide, as well as those individuals who commit
6 genocide directly.

7 (3) On October 27, 2005, at the World Without
8 Zionism Conference in Tehran, Iran, the President of
9 Iran, Mahmoud Ahmadinejad, called for Israel to be
10 "wiped off the map," described Israel as "a disgrace-
11 ful blot [on] the face of the Islamic world," and de-
12 clared that "[a]nybody who recognizes Israel will
13 burn in the fire of the Islamic nation's fury." Presi-
14 dent Ahmadinejad has subsequently made similar
15 types of comments, and the Government of Iran has
16 displayed inflammatory symbols that express similar
17 intent.

18 (4) On December 23, 2006, the United Nations
19 Security Council unanimously approved Resolution
20 1737, which bans the supply of nuclear technology
21 and equipment to Iran and freezes the assets of cer-
22 tain organizations and individuals involved in Iran's
23 nuclear program, until Iran suspends its enrichment
24 of uranium, as verified by the International Atomic
25 Energy Agency.

1 (5) *Following Iran’s failure to comply with Res-*
2 *olution 1737, on March 24, 2007, the United Nations*
3 *Security Council unanimously approved Resolution*
4 *1747, to tighten sanctions on Iran, imposing a ban*
5 *on arms sales and expanding the freeze on assets, in*
6 *response to the country’s uranium-enrichment activi-*
7 *ties.*

8 (6) *There are now signs of domestic discontent*
9 *within Iran, and targeted financial and economic*
10 *measures could produce further political pressure*
11 *within Iran. According to the Economist Intelligence*
12 *Unit, the nuclear crisis “is imposing a heavy oppor-*
13 *tunity cost on Iran’s economic development, slowing*
14 *down investment in the oil, gas, and petrochemical*
15 *sectors, as well as in critical infrastructure projects,*
16 *including electricity”.*

17 (7) *Targeted financial measures represent one of*
18 *the strongest non-military tools available to convince*
19 *Tehran that it can no longer afford to engage in dan-*
20 *gerous, destabilizing activities such as its nuclear*
21 *weapons program and its support for terrorism.*

22 (8) *Foreign persons that have invested in Iran’s*
23 *energy sector, despite Iran’s support of international*
24 *terrorism and its nuclear program, have provided ad-*
25 *ditional financial means for Iran’s activities in these*

1 *areas, and many United States persons have unknow-*
2 *ingly invested in those same foreign persons.*

3 *(9) There is an increasing interest by States,*
4 *local governments, educational institutions, and pri-*
5 *rate institutions to seek to disassociate themselves*
6 *from companies that directly or indirectly support the*
7 *Government of Iran's efforts to achieve a nuclear*
8 *weapons capability.*

9 *(10) Policy makers and fund managers may find*
10 *moral, prudential, or reputational reasons to divest*
11 *from companies that accept the business risk of oper-*
12 *ating in countries that are subject to international*
13 *economic sanctions or that have business relationships*
14 *with countries, governments, or entities with which*
15 *any United States company would be prohibited from*
16 *dealing because of economic sanctions imposed by the*
17 *United States.*

18 **SEC. 3. TRANSPARENCY IN U.S. CAPITAL MARKETS.**

19 *(a) LIST OF PERSONS INVESTING IN IRAN ENERGY*
20 *SECTOR.—*

21 *(1) PUBLICATION OF LIST.—Not later than 6*
22 *months after the date of the enactment of this Act and*
23 *every 6 months thereafter, the President shall ensure*
24 *publication in the Federal Register of a list of each*
25 *person, whether within or outside of the United*

1 *States, that, as of the date of the publication, has an*
2 *investment of more than \$20,000,000 in the energy*
3 *sector in Iran, and each person that is an inter-*
4 *national financial institution that, as of the date of*
5 *the publication, has any investment in the energy sec-*
6 *tor in Iran. The list shall include a description of the*
7 *investment made by each such person, including the*
8 *dollar value, intended purpose, and status of the in-*
9 *vestment, as of the date of the publication.*

10 (2) *PRIOR NOTICE TO PERSONS.—The President*
11 *or a designee of the President shall, at least 30 days*
12 *before the list is published under paragraph (1), no-*
13 *tify each person that the President or his designee, as*
14 *the case may be, intends to include on the list.*

15 (3) *DELAY IN INCLUDING PERSONS ON THE*
16 *LIST.—After notifying a person under paragraph (2),*
17 *the the President or a designee of the President may*
18 *delay including that person on the list for up to 60*
19 *days if the President or designee determines and cer-*
20 *tifies to the Congress that the person has taken spe-*
21 *cific and effective actions to terminate the involve-*
22 *ment of the person in the activities that resulted in*
23 *the notification under paragraph (2).*

24 (4) *REMOVAL OF PERSONS FROM THE LIST.—*
25 *The President or a designee of the President may re-*

1 *move a person from the list before the next publica-*
 2 *tion of the list under paragraph (1) if the President*
 3 *or a designee of the President, determines that the*
 4 *person no longer has an investment of more than*
 5 *\$20,000,000 in the energy sector in Iran.*

6 *(b) PUBLICATION ON WEBSITE.—The President shall*
 7 *ensure that the list is published on an appropriate govern-*
 8 *ment website, updating the list as necessary to take into*
 9 *account any person removed from the list under subsection*
 10 *(a)(4).*

11 *(c) DEFINITION.—In this section, the term “invest-*
 12 *ment” has the meaning given that term in section 14(9)*
 13 *of the Iran Sanctions Act (50 U.S.C. 1701 App.).*

14 **SEC. 4. AUTHORITY OF STATE AND LOCAL GOVERNMENTS**
 15 **TO DIVEST FROM CERTAIN COMPANIES IN-**
 16 **VESTED IN IRAN’S ENERGY SECTOR.**

17 *(a) STATEMENT OF POLICY.—It is the policy of the*
 18 *United States to support the decision of State governments,*
 19 *local governments, and educational institutions to divest*
 20 *from, and to prohibit the investment of assets they control*
 21 *in, persons that have investments of more than \$20,000,000*
 22 *in Iran’s energy sector.*

23 *(b) AUTHORITY TO DIVEST.—*

24 *(1) IN GENERAL.—Notwithstanding any other*
 25 *provision of law, a State or local government may*

1 *adopt and enforce measures to divest the assets of the*
 2 *State or local government from, or prohibit invest-*
 3 *ment of the assets of the State or local government*
 4 *in—*

5 *(A) persons that are included on the most*
 6 *recent list published under section 3(a)(1), as*
 7 *modified under section 3(a)(4); and*

8 *(B) persons having an investment in, or*
 9 *carrying on a trade or business (within the*
 10 *meaning of section 162 of the Internal Revenue*
 11 *Code of 1986) in or with, Iran.*

12 *(2) APPLICABILITY.—This subsection applies to*
 13 *measures adopted by a State or local government be-*
 14 *fore, on, or after the date of the enactment of this Act.*

15 *(3) DEFINITIONS.—In this subsection:*

16 *(A) INVESTMENT.—The “investment” of as-*
 17 *sets includes—*

18 *(i) a commitment or contribution of*
 19 *assets; and*

20 *(ii) a loan or other extension of credit*
 21 *of assets.*

22 *(B) ASSETS.—The term “assets” refers to*
 23 *public monies and includes any pension, retire-*
 24 *ment, annuity, or endowment fund, or similar*

1 *instrument, that is controlled by a State or local*
 2 *government.*

3 (C) *ASSETS OF A STATE OR LOCAL GOVERN-*
 4 *MENT.—The term “assets of the State or local*
 5 *government” refers to assets that the State or*
 6 *local government controls.*

7 (4) *ADDITIONAL DEFINITION.—For purposes of*
 8 *paragraph (1)(B), the term “investment” means the*
 9 *acquisition of property or assets for the production of*
 10 *revenue.*

11 (c) *PREEMPTION.—A measure of a State or local gov-*
 12 *ernment that is authorized by subsection (b) is not pre-*
 13 *empted by any Federal law or regulation except to the ex-*
 14 *tent that a person is unable to comply with both the meas-*
 15 *ure and the Federal law or regulation.*

16 **SEC. 5. SAFE HARBOR FOR CHANGES OF INVESTMENT POLI-**
 17 **CIES BY MUTUAL FUNDS.**

18 *Section 13 of the Investment Company Act of 1940 (15*
 19 *U.S.C. 80a–13) is amended by adding at the end the fol-*
 20 *lowing new subsection:*

21 “(c) *SAFE HARBOR FOR CHANGES IN INVESTMENT*
 22 *POLICIES.—Notwithstanding any other provision of Fed-*
 23 *eral or State law, no person may bring any civil, criminal,*
 24 *or administrative action against any registered investment*
 25 *company or person providing services to such registered in-*

1 *vestment company (including its investment adviser), or*
 2 *any employee, officer, or director thereof, based upon the*
 3 *investment company divesting from, or avoiding investing*
 4 *in, securities issued by companies that are included on the*
 5 *most recent list published under section 3(a)(1) of the Iran*
 6 *Sanctions Enabling Act of 2007, as modified under section*
 7 *3(b) of that Act. For purposes of this subsection the term*
 8 *‘person’ shall include the Federal government, and any*
 9 *State or political subdivision of a State.”.*

10 **SEC. 6. SAFE HARBOR FOR CHANGES OF INVESTMENT POLI-**
 11 **CIES BY EMPLOYEE BENEFIT PLANS.**

12 *Section 502 of the Employee Retirement Income Secu-*
 13 *rity Act of 1974 (29 U.S.C. 1132) is amended by adding*
 14 *at the end the following new subsection:*

15 *“(n) No person shall be treated as breaching any of*
 16 *the responsibilities, obligations, or duties imposed upon fi-*
 17 *duciaries by this title, and no action may be brought under*
 18 *this section against any person, for divesting plan assets*
 19 *from, or avoiding investing plan assets in, persons that are*
 20 *included on the most recent list published under section*
 21 *3(a)(1) of the Iran Sanctions Enabling Act, as modified*
 22 *under section 3(a)(4) of such Act.”.*

1 **SEC. 7. SENSE OF THE CONGRESS REGARDING THRIFT SAV-**
 2 **INGS PLAN.**

3 *It is the sense of the Congress that the Federal Retire-*
 4 *ment Thrift Investment Board should initiate efforts to pro-*
 5 *vide a terror-free international investment option among*
 6 *the funds of the Thrift Savings Fund that would invest in*
 7 *stocks in which the International Stock Index Investment*
 8 *Fund may invest under section 8438(b)(4) of title 5, United*
 9 *States Code, other than the stock of companies that do busi-*
 10 *ness in any country the government of which the Secretary*
 11 *of State has determined, for purposes of section 6(j) of the*
 12 *Export Administration Act of 1979 (as continued in effect*
 13 *pursuant to the International Emergency Economic Powers*
 14 *Act), section 40 of the Arms Export Control Act, section*
 15 *620A of the Foreign Assistance Act of 1961, or other provi-*
 16 *sion of law, is a government that has repeatedly provided*
 17 *support for acts of international terrorism.*

18 **SEC. 8. DEFINITIONS.**

19 *In this Act:*

20 (1) *IRAN.*—*The term “Iran” includes any agency*
 21 *or instrumentality of Iran.*

22 (2) *ENERGY SECTOR.*—*The term “energy sector”*
 23 *refers to activities to develop petroleum or natural gas*
 24 *resources.*

25 (3) *PERSON.*—*The term “person” means—*

1 (A) *a natural person as well as a corpora-*
 2 *tion, business association, partnership, society,*
 3 *trust, any other nongovernmental entity, organi-*
 4 *zation, or group;*

5 (B) *any governmental entity or instrumen-*
 6 *tality of a government, including an inter-*
 7 *national financial institution; and*

8 (C) *any successor, subunit, or subsidiary of*
 9 *any entity described in subparagraph (A) or (B).*

10 (4) *STATE.—The term “State” includes the Dis-*
 11 *trict of Columbia, the Commonwealth or Puerto Rico,*
 12 *the Virgin Islands, Guam, American Samoa, and the*
 13 *Commonwealth of the Northern Mariana Islands.*

14 (5) *STATE OR LOCAL GOVERNMENT.—*

15 (A) *IN GENERAL.—The term “State or local*
 16 *government” includes—*

17 (i) *any State and any agency or in-*
 18 *strumentality thereof;*

19 (ii) *any local government within a*
 20 *State, and any agency or instrumentality*
 21 *thereof; and*

22 (iii) *any public institution of higher*
 23 *education.*

24 (B) *PUBLIC INSTITUTION OF HIGHER EDU-*
 25 *CATION.—The term “public institution of higher*

1 *education” means a public institution of higher*
2 *education within the meaning of the Higher*
3 *Education Act of 1965.*

4 (6) *INTERNATIONAL FINANCIAL INSTITUTION.—*
5 *The term “international financial institution” means*
6 *the International Bank for Reconstruction and Devel-*
7 *opment, the International Monetary Fund, and the*
8 *United Nations.*

9 **SEC. 9. SUNSET.**

10 *This Act shall terminate 30 days after the date on*
11 *which the President has certified to Congress that—*

12 (1) *the Government of Iran has ceased providing*
13 *support for acts of international terrorism and no*
14 *longer satisfies the requirements for designation as a*
15 *state-sponsor of terrorism for purposes of section 6(j)*
16 *of the Export Administration Act of 1979, section*
17 *620A of the Foreign Assistance Act of 1961, section*
18 *40 of the Arms Export Control Act, or any other pro-*
19 *vision of law; and*

20 (2) *Iran has ceased the pursuit, acquisition, and*
21 *development of nuclear, biological, and chemical*
22 *weapons and ballistic missiles and ballistic missile*
23 *launch technology.*

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